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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,566

11/17/2005

Heinz Focke

20605.019US

6520

7590
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09/17/2007

EXAMINER

PARADISO, JOHN ROGER

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

09/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.	Applicant(s)	
10/534,566	FOCKE ET AL.	
Examiner	Art Unit	
John R. Paradiso	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9-13 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-13 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 9 and 17-18 are objected to because of the following informalities:

- Claim 9 recites dependency upon claim 7, a cancelled claim.
- Claims 17 and 18 recite dependency upon claim 14, a cancelled claim.

Appropriate correction is required.

3. Claims 1-6, 9-13, and 16-19 are rejected under 35 U.S.C. § 102(b) as being anticipated by AGAR (GB 991222).

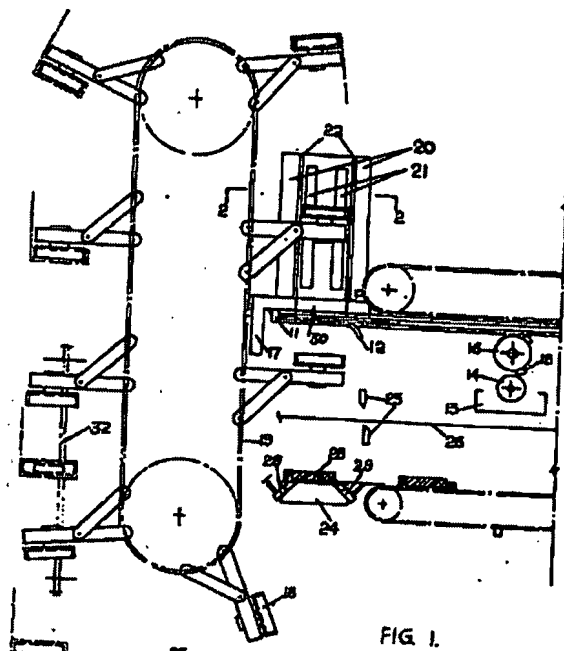
AGAR discloses a method and apparatus for erecting blanks by means of continuously driven forming punches (see Fig. 1). Blanks (2) are transferred from a magazine (1) by means of conveyors (3, 8) (see Fig. 2) the mouth of a forming shaft (20) (see Fig. 1). A plurality of forming punches (15) are swiveled into and out of the forming shaft in succession, each forming a blank into a box. The forming punches are driven by a continuous conveyor (19). The erected boxes are moved by a conveyor (25) to be filled.

Response to Arguments

4. Applicant's arguments filed 1/31/2007 have been fully considered but they are not persuasive.

5. Applicant states on page 7 of his Response that "Agar '222 fails to disclose a method or device in which the forming punch moves into the forming shaft and then reverses direction to return to the initial position."

However, claim 1 lines 11-14 recite "once the blank (12) has been introduced into the forming shaft (17), moving the conveying means in a direction opposite to that of pressing of the blanks (12) into a position in front of the aperture (16) of the forming shaft (17)." This recitation is read on the invention of AGAR. Fig. 1 of AGAR, shown below, clearly shows the forming punches moving on a conveyor first in a direction of erection and subsequently in an opposite direction until they are again placed at the entrance to the forming shaft.



6. Applicant states on page 8 of his Response that “Overall, the method and device in Agar –222 would teach away from a method or device in which the forward movement occurs when the blanks are erected followed by a reverse movement for moving the forming punches out of the forming shaft.

However, as explained above, claim 1 lines 11-14 recite “once the blank (12) has been introduced into the forming shaft (17), moving the conveying means in a direction opposite to that of pressing of the blanks (12) into a position in front of the aperture (16) of the forming shaft (17).” This recitation is read on the invention of AGAR. Fig. 1 of AGAR clearly shows the forming punches moving on a conveyor first in a direction of erection and subsequently in an opposite direction until they are again placed at the entrance to the forming shaft.

Examiner notes that during patent examination of the claims, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005). *See also* MPEP § 2111. Moreover, while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, *this is not the mode of claim interpretation to be applied during examination*. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). *See also* MPEP § 2111.01.

Conclusion

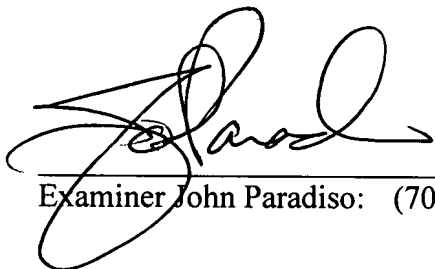
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (703) 308-2825



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700
September 10, 2007

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 272-4467
Fax (Official): (571) 273-8300
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